

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

UNITED STATES OF AMERICA :

- v. - :

JOANNE SIMMONS, : 12 Cr. 652 (MHD)

Defendant. :

- - - - -x

**THE GOVERNMENT'S PROPOSED
EXAMINATION OF PROSPECTIVE JURORS**

PREET BHARARA
United States Attorney for the
Southern District of New York

CHRISTINE I. MAGDO
KATHERINE C. REILLY
Assistant United States Attorneys
Of Counsel

The Government respectfully requests that the Court include the following questions in its examination of prospective jurors pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure. The Government also requests that the Court pursue more detailed questioning at the sidebar or in the robing room if a prospective juror's answer to any question reveals that further inquiry is appropriate and, in such an instance, conclude with an inquiry as to whether the particular fact or circumstance would influence the prospective juror in favor of or against either the Government or the defendant.

The Charges

1. This is a criminal case. The defendant is Joanne Simmons. The defendant has been charged in an Information with violating a certain federal law. The Information was filed by the United States Attorney for the Southern District of New York.

2. The Information is not evidence itself. It simply contains the charge that the Government is required to prove to the satisfaction of the jury beyond a reasonable doubt. I would like to summarize the charge in this case in order to determine whether there is anything about the nature of this case which may make it difficult or inappropriate for any of you to serve on the jury.

3. The Information charges that from in or about 2004 through in or about 2012, in the Southern District of New York and elsewhere, the defendant, Joanne Simmons, knowingly and with intent to defraud did make a false statement to the United States Department of Housing and Urban Development, to wit, Simmons falsely reported her principal residence to obtain more than \$120,000 in federal housing subsidies from the United States Department of Housing and Urban Development.

Knowledge of Events

4. Do any of you believe you have personal knowledge of the charges contained in the Information as I have described them? Have any of you read or heard anything about this case? If so, is there anything you have read or heard that would cause you to feel that you cannot decide the fact issues of this case fairly and impartially?

Knowledge of the Trial Participants

5. The defendant in this case is Joanne Simmons. Do any of you know, or have you had any dealings, directly or indirectly, with the defendant, or with any relative, friend, or associate of the defendant?

6. To your knowledge, do any of your relatives, friends, associates, or employers know this defendant, or any relatives, friends or associates of this defendant?

7. The defendant is represented by Michael Kushner. [*Please ask counsel to stand.*] Do any of you know Mr. Kushner or anyone that he works with? Have any of you or your family members or close friends had dealings, either directly or indirectly, with Mr. Kushner or anyone he works with?

8. The Government is represented here, as in all cases where it is a party before this Court, by the United States Attorney for the Southern District of New York, who is Preet Bharara. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Christine Magdo and Katherine Reilly, and paralegal Colleen Geier. [*Please ask counsel and the paralegal to stand.*] Do any of you know Mr. Bharara, Ms. Magdo, Ms. Reilly, or Ms. Geier? Have you or your family members or close friends had any dealings either directly or indirectly with them?

9. I will now read a list of names of individuals whose names may be mentioned during the trial, or who may be witnesses in this case.

- a. Marilyn Sarjeant
- b. Calvin Merritt
- c. David LaSalle
- d. Matthew Maguire
- e. Joseph Lekhram

- f. Vishram Lekhram
- g. Renton Lekhram
- h. Chanele Headley
- i. LaShawna Moye
- j. Malachi Capers
- k. Ezekiel Headley
- l. Zachariah Headley
- m. Isaiah Headley

10. Do any of you know any of these people? Have you had any dealings either directly or indirectly with any of these individuals? Have your relatives, friends, associates, employers or employees had any dealings with any of these individuals?

11. Does anyone know any of the other potential jurors?

Relevant Locations

12. I will now let you know about some locations that may be mentioned or shown during the trial:

- a. 1118 Madison St, Brooklyn, NY
- b. 89-15 218th Place, Queens Village, NY

13. Do any of you have any knowledge of either of these locations that would render you unable to decide a case involving that location fairly and impartially?

Ability to Render Fair Verdict

14. As you can tell, during the trial, you will hear evidence concerning false statements made to a federal agency called HUD in order to obtain housing benefits under the Section 8 program. Would the nature of this crime make it difficult for any of you to render a fair verdict? Do any of you have any opinion about the Section 8 housing program or fraud against the Section 8 housing program that might prevent you from being fair and impartial in this case? Has any juror had any personal experience with Section 8 housing program or with Section 8 fraud that would make it difficult for him or her to be impartial? Do any of you feel that you could not decide such a charge fairly and impartially?

Law Enforcement Witnesses

15. The witnesses in this case will include law enforcement personnel. The law requires that the testimony of a law enforcement witness not be given any greater or less credence than any other witness merely because of the witness's official position. Would you be more likely to believe or disbelieve a witness merely because he or she is a law enforcement officer?

Alternative Investigative Techniques Not Required

16. Does anyone have any expectations about the types of evidence that the Government might present in all criminal trials? Would any of you be unable to follow the judge's instructions that the Government is not required to use any particular technique when investigating and presenting evidence of a crime?

Relationship with Government

17. Do any of you know, or have any association - professional, business, or social, direct or indirect - with any member of the staff of the United States Attorney's Office for the Southern District of New York, any member of the staff of the New York City Housing Authority ("NYCHA") or any members of the staff of the Department of Housing and Urban Development ("HUD")? Is any member of your family employed by any law enforcement agency, whether federal, state, or local?

18. Do any of you have any bias, prejudice, or other feelings for or against the United States Attorney's Office, NYCHA, or HUD, or any other law enforcement agency? Have any of you, either through any experience you have had or anything you have seen or read, developed any bias or prejudice for or against the United States Attorney's Office, NYCHA, or HUD, or any other law enforcement agency?

19. Have you, or has any member of your family, either as an individual, or in the course of business, ever been a party to any legal action or dispute with the United States, or with any of the officers, departments, agencies, or employees of the United States? Have any of you had any legal, financial, or other interest in any such legal action or dispute, or its outcome? Have any of you, or any member of your family, ever had such a dispute concerning payment of money owed to you by the Government?

Prior Jury Service

20. Have you ever, at any time, served as a member of a grand jury, whether in federal, state, county, or city court? If so, when and where did you serve? If yes, were you the foreperson?

21. Have you ever served as a juror in any court? If so, were you the foreperson? If so, when, and in what court did you serve, and was it a civil or criminal case? What was the nature of the case? Without saying what it was, did the jury reach a verdict? Do you think the outcome was fair?

Experience as a Witness, Defendant, or Crime Victim

22. Have any of you, or any of your relatives or close friends, ever been involved or appeared as a witness in any investigation by a federal or state grand jury, or by a Congressional or state legislative committee, licensing authority, or governmental agency?

Have you, or any of those close to you, ever been questioned in any matter by a federal, state, or local law enforcement agency?

23. Have you ever been a witness or a complainant in any federal or state prosecution?

24. Are you, or is any member of your family, now under subpoena or, to your knowledge, about to be subpoenaed in any criminal case?

25. Have you, or has any member of your family, any associate, or close friend, ever been charged with a crime?

26. Have you, or have any of your relatives, associates, or close friends ever been the subject of any investigation or accusation by any federal or state grand jury, or by any Congressional committee?

27. Have you, or any of your close friends or relatives, ever been a victim of a crime? *[As to any juror who answers affirmatively, the Government respectfully requests that the Court inquire, at the bench or in the robing room, into the circumstances of each crime.]*

General Questions For The Panel

28. Do any of you have problems with your hearing or vision which would prevent you from giving full attention to all of the evidence at this trial?

29. Are any of you taking any medication, or do any of you have any medical condition, that would prevent you from giving full attention to all of the evidence at this trial?

30. Do any of you have any difficulty in reading or understanding English?

31. Do any of you have any religious, philosophical, or other beliefs that would make you unable to render a guilty verdict for reasons unrelated to the law and the evidence?

Function of the Court and Jury

32. The function of the jury is to decide questions of fact. You are the sole judge of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact-finder. When it comes to the law, however, you are to take your instructions from the Court, and you are bound by those instructions. You may not substitute your own notions of what the law is, or what you think it should be. At the conclusion of the case, your job will be to determine whether or not each defendant is guilty as charged in the Information. Do any of you have any bias or prejudice that might prevent or hinder you from accepting the instructions of law that I will give you in this case?

33. Will each of you accept the proposition that the question of punishment is for the Court alone to decide, and that the possible

punishment must not enter into your deliberations as to whether each defendant is guilty?

34. Will each of you accept the proposition of law that sympathy must not enter into the deliberations of the jurors as to guilt of a defendant, and that only the evidence produced here in Court may be used by you to determine the guilt of a defendant?

35. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Do any of you feel that even if the evidence established the defendant's guilt beyond a reasonable doubt, you might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

Other Biases

36. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, do any of you have the slightest doubt in your mind, for any reason whatsoever, that you will be able to serve conscientiously, fairly, and impartially in this case, and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it will be explained to you?

Individual Questions for Each Juror

37. The Government respectfully requests that the Court ask each juror to state the following information:

- a. the juror's age;
- b. the juror's family status;
- c. the area in which the juror resides and any other area in which the juror has resided during the last ten years;
- d. where the juror was born;
- e. the juror's educational background, including the highest degree obtained;
- f. whether the juror has served in the military;
- g. the juror's occupation;
- h. the name and location of the juror's employer, and the period of employment with that employer;
- i. the name and location of other employment within the last five years;
- j. the name and location of employers with respect to the juror's spouse, any working children, and any working members of the juror's household;
- k. what newspapers and magazines the juror reads and how often;

- l. what television programs the juror regularly watches; and
- m. the juror's hobbies and leisure-time activities.

Requested Instruction Following Impaneling of the Jury

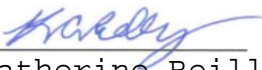
38. From this point until the time when you retire to deliberate your verdict, it is your duty not to discuss this case, and not to remain in the presence of other persons who may be discussing this case. The rule about not discussing the case with others includes discussions even with members of your own family and your friends.

39. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me through my deputy clerk. In this regard, let me explain to you that the attorneys and the defendant in a case are not supposed to talk to jurors, not even to offer a friendly greeting. So if you happen to see any of them outside this courtroom, they will, and should, ignore you. Please do not take offense. They will be acting properly by doing so.

Dated: New York, New York
October 29, 2014

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By: 
Katherine Reilly/Christine Magdo
Assistant United States Attorneys
Tel.: (212) 637-6521/2297

Certificate of Service

Filed Electronically


The undersigned attorney, duly admitted to practice before this Court, hereby certifies that on the below date, s/he served or caused to be served the following document in the manner indicated:

THE GOVERNMENT'S PROPOSED EXAMINATION OF PROSPECTIVE JURORS

Service via Electronic Mail upon defense counsel in this case:

Michael Kushner, Esq.

Dated: New York, New York
October 29, 2014


Katherine Reilly
Assistant United States Attorney
(212) 637-6521